

PATENT
Attorney Docket No.: 53000 PCT US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Blum, D. CONFIRMATION NO.: 3205
SERIAL NO.: 10/598,366 GROUP ART UNIT: 1782
FILING DATE: December 20, 2006 EXAMINER: Kashnikow, Erik
TITLE: CONDOM WITH WARMTH IMPARTING LUBRICANT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT
AND
APPLICATION FOR PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. §1.705(d)

Sir or Madam:

Applicants hereby request that the Office reconsider the Patent Term Adjustment and adjust the Patent Term Adjustment determination for this issued patent.

This request is made within TWO months from the date of issuance of the patent, i.e. by January 22, 2012. It is noted that January 22, 2012 falls on a Sunday. Accordingly, the Request for Reconsideration of the Patent Term Adjustment is being timely filed on Monday, January 23, 2012.

This patent is not subject to a terminal disclaimer.

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704 (other than the Applicants' delays as already determined by the Office on PAIR).

Applicants believe that the Office miscalculated the Commencement Date of August 23, 2007, which corresponds to the expiration of 30 months from the International Filing Date of

February 23, 2005. However, Applicants note that the instant patent claims the benefit of Provisional Application No. 60/547,895, which was filed on February 26, 2004, and, in fact, the instant patent was National Phase filed under 35 U.S.C. 371 on August 25, 2006. Applicants enclose herewith (1) a courtesy copy of the Filing Receipt showing the priority claim to Provisional Application No. 60/547,895, filed on February 26, 2004; and (2) a courtesy copy of the EFS Electronic Filing Receipt showing the National Phase filing date under 35 U.S.C. 371¹.

Applicants submit that, as provided under 37 C.F.R. §1.702(b) and 37 C.F.R. §1.703(b), the Commencement Date of the instant patent, for PTA purposes, should be August 25, 2006, i.e., the date on which the National Stage commenced under 35 U.S.C. 371(f). As such the “B” delays for prosecution beyond the 3 year period specified under 37 C.F.R. §1.702(b) should be calculated from August 25, 2006.

The statement of facts involved specifying the correct Patent Term Adjustment and the bases for the adjustment are as follows:

37 C.F.R. §1.702(b). The Office is required to issue a patent within three years from the actual filing date of the application:

The date on which the National Stage commenced under 35 U.S.C 371	August 25, 2006
3 years from the date the application was filed	August 25, 2009
The date of filing a Request for Continued Examination under 35 U.S.C 132	January 4, 2011
Total Amount of B delays	496 days
Minus: Number of A delay days that occurs after the 3 year anniversary of the commencement of the National Stage	70 days
The difference for which Applicant should receive credit under 37 C.F.R. §1.702(b)	<u>426 days</u>

1. A request for certificate correction together with a copy of the Filing Receipt and a copy of the Declaration for Patent Application claiming priority to Provisional Application No. 60/547,895, filed on February 26, 2004, is filed concurrently.

The Office credited Applicant 0 days, when it should have credited an additional **426 days**, as illustrated above. Accordingly, Applicants submit that the Office should have credited a total of **756 days** (426 days + 330 days) under 37 C.F.R. §1.702(a) and 37 C.F.R. §1.702(b).

The Commissioner is hereby authorized to charge the petition fee under 37 C.F.R. §1.18(e) of \$200.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 50-2678, Attorney Docket No. 53000 PCT US.

Respectfully submitted,

Date: January 23, 2012

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